



TO: Chairwoman Klick & Members of the House Committee on Elections  
FROM: Sarah Jane Higginbotham, Secure Democracy - 611 Pennsylvania Avenue, SE 143,  
Washington, DC 20003 - 202.643.7530 - sarahjane@secure-democracy.org  
DATE: September 18, 2020  
RE: Interim Charge #3

Chairwoman Klick, Vice Chairman Cortez, and members of the committee:

Thank you for the opportunity to submit comments on the interim charges before the House Elections Committee. Secure Democracy submits the following in response to Interim Charge #3, which invites evaluation on Texas election laws with the purpose of strengthening voter integrity and fair elections. Secure Democracy is a nonpartisan organization that works to educate policymakers and the public about secure and fair elections. Our mission is to ensure that all eligible citizens have the freedom to vote and the confidence to know that their vote is counted. We develop and implement policy solutions at the federal, state and local levels that will secure, protect and defend access for all eligible voters. We believe that secure and fair elections do not have to be mutually exclusive and that both can be achieved through a data-centric approach.

Given the rising threat of foreign election interference, the declining trust that voters have in American election systems, and the challenges posed to voters by the COVID-19 pandemic, it is critical that Texas use the 2021 legislative session to modernize its election system. In particular, we have outlined four critical areas of focus where we encourage the Texas legislature to enact laws that will help better secure elections from outside interference, and ensure every Texan is able to exercise their sacred right to vote, including: voter registration, absentee voting, paper ballots, and voter list maintenance.

## **Establish online voter registration**

**Online voter registration has broad bipartisan support.** Online voter registration, or “OVR,” is a popular, secure, and cost effective method for Texans to participate in the democratic process. Already, at least 39 states currently allow voters to register online.<sup>1</sup> OVR has been adopted in states from Alabama and Missouri to Colorado and Pennsylvania. As Mark Thomas, Utah’s former chief deputy and director of elections, put it: “Having an online voter

---

<sup>1</sup> As of January 1, 2020 AK, AL, AZ, CA, CO, CT, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, NC, NE, NM, NV, NY, OH, OR, PA, RI, SC, TN, UT, VA, VT, WA, WI, & WY all had some form of statewide online voter registration system.

registration system is a no-brainer — users love it, election officials love it, and taxpayers love it.”<sup>2</sup>

**OVR makes voting more convenient and accessible.** OVR makes it safer and easier for voters to register from their own home, which is particularly beneficial to rural voters, people with disabilities, and those at-risk of contracting COVID-19. Unfortunately, Texas regularly ranks in the bottom one-fifth of states in both voter turnout and voter registration<sup>3</sup> as a percentage of the state’s voting eligible population, but OVR is an opportunity to fix that: making it easier to register to vote can help increase participation.

**OVR saves taxpayer dollars.** Per a 2014 survey conducted by the Pew Charitable Trusts, the average cost to build a statewide OVR system is around \$240,000.<sup>4</sup> After Arizona implemented an OVR system, Maricopa County’s processing costs dropped dramatically from \$0.83 per paper registrant to \$0.03 per online registrant.<sup>5</sup>

**OVR systems can be fully integrated with the Texas DMV system.** Practically all states that have adopted an OVR system have integrated it into their motor vehicle licensing systems. Not only does integration allow voters to register to vote when renewing their driver’s license or updating their address, it enables the voter to use the signature on file with the DMV to be automatically incorporated into their voter registration file. A number of states also allow voters to register online without a state ID by digitally signing their voter registration in their own hand using programs like DocuSign.<sup>6</sup>

**OVR ensures compliance with the National Voter Registration Act.** Just last month the U.S. District Court for the Western District of Texas ruled the state has failed to comply with the requirements of the National Voter Registration Act (“NVRA”) by neglecting to allow voters to simultaneously update their voter registration when renewing their driver’s license or submitting a change of address form online.<sup>7</sup> The court has ordered the state to implement a fully operable online system for voter registration by September 23, 2020. Assuming this order is upheld, it would effectively obligate Texas to offer OVR for the foreseeable future. The legislature should enact laws to ensure the system put in place is both accessible and convenient for all voters, and that election administrators see the benefits of a deliberately implemented OVR system.

---

<sup>2</sup> [Understanding Online Voter Registration](#), The Pew Charitable Trusts, January 2014.

<sup>3</sup> See, [Voting and Registration in the Election of November 2018](#), U.S. Census Bureau, April 2019, Table 4a and [National Turnout Rates, 1787-2018](#), United States Elections Project, Michael P. McDonald.

<sup>4</sup> [Understanding Online Voter Registration](#), The Pew Charitable Trusts, January 2014.

<sup>5</sup> [Online Voter Registration Systems in Arizona and Washington: Evaluating Usage, Public Confidence and Implementation Processes](#), Matt A. Barreto et al., April 1, 2010, p. 93.

<sup>6</sup> Delaware, Kentucky, and Minnesota do not require voters to have a state issued ID in order to register online.

<sup>7</sup> [Stringer et al. v. Hughs et al.](#), 5:20-cv-00046-OLG (W.D. Tex. August 28, 2020).

**2021 is the opportune time to implement an OVR system.** It is typically best to roll out new technical systems well in advance of major elections, while plenty of time remains for testing and user feedback. An odd-numbered year following a presidential election is the ideal time to begin implementing a new OVR system.

## **Establish auditable paper ballot system**

**Paper ballots safeguard against hacking and data corruption.** With the growing threat of foreign and domestic election interference from a wide range of cybersecurity threats, paper ballots can act as a critical fail-safe for our democracy. Fully computerized election systems are particularly vulnerable, as there is no reliable way to conduct an audit or recount. As one election official in Oregon put it: “You can’t hack paper.”<sup>8</sup> In the event vote data is intentionally or negligently corrupted, an auditable paper trail can ensure the integrity of the final vote using hand recounts and risk limiting audits. Texas is only one of eight states where counties use electronic voting machines without voter-verified paper audit trails.

**Auditable paper ballots help instill confidence in voters.** Recent polls show that Americans distrust our election systems more than most other western democracies, with nearly 60 percent of Americans who say they lack confidence in the honesty of U.S. elections.<sup>9</sup> Allowing voters to fill out a hand-marked paper ballot, or review a printout of their ballot before they cast their vote, can give them confidence that their vote was counted and recorded accurately.

## **Establish no-excuse absentee voting**

**Voters deserve and support options to ensure they can participate.** Voters should have as many options available to them as is reasonably possible when seeking to cast a ballot. An April 2020 survey research by one of President Trump's campaign pollsters, Fabrizio Lee, shows broad support for more absentee voting and elections spending amid the pandemic. Three-fourths of the respondents said they favor states keeping polling locations open (so long as they meet health guidelines), but also giving all voters the option to vote absentee; 82% of Democrats, 76% of independents and 70% of Republicans supported that dual option — and it was most popular with voters 65 and older.<sup>10</sup> No voter who wishes to vote in person should be obligated to cast an absentee ballot. By the same token, no voter should be forced to vote in

---

<sup>8</sup> [‘You can’t hack paper’: How Oregon fights election meddling](#). Cynthia McFadden and Kevin Monahan, NBC News, November 3, 2018.

<sup>9</sup> [Faith in Elections in Relatively Short Supply in U.S.](#), RJ Reinhart, Gallup News, February 13, 2020.

<sup>10</sup> [Trump pollster finds strong demand for expanded absentee voting](#), Axios; Alayna Treene, Margaret Talev, May 1, 2020.

person if they prefer to cast a ballot from home. Voting from home is often critical for those with inflexible work schedules, limited access to transportation, or health issues.

**No-excuse absentee voting is secure.** Absentee voting is just as secure as in-person voting. Simple procedures such as ballot tracking and use of unique barcodes can give voters peace of mind that their ballot has been counted and that no voter has cast more than one ballot. Establishing a “cure process,” whereby voters are notified of problems with their absentee ballot and afforded an opportunity to fix any problems, gives voters additional confidence that their vote won’t be unfairly rejected. Finally, as discussed below, absentee ballots provide a 100% auditable paper trail so that election administrators can identify and investigate any irregularities in the rare cases when they occur.

**Absentee voting does not favor either political party.** A recent study of Texas’s July 14, 2020 primary runoff shows that expanded access to absentee voting options during the COVID-19 pandemic has allowed voters to “shift to a more health- preserving mode of voting,” but found no change in the partisan composition in the overall electorate.<sup>11</sup>

**No-excuse absentee voting has bipartisan support.** Before 2020, 32 states allowed all voters to cast an absentee or mail ballot without an excuse.<sup>12</sup> Since the start of the COVID-19 pandemic, another 9 states have either permanently or temporarily expanded voter access to absentee ballots, including Missouri, Kentucky, and Alabama.<sup>13</sup>

## **Adopt fair and accurate voter list maintenance practices**

**Lawmakers should adopt procedural safeguards to ensure qualified voters are not mistakenly removed from voter rolls.** Voter list maintenance initiatives must be conducted rigorously and methodically to ensure qualified voters remain on the registration lists. Voter list maintenance practices developed in response to false claims of widespread registration fraud can lead to wrongful disenfranchisement and costly litigation.<sup>14</sup> Texas law should ensure legitimate voters are not unduly removed from voter registration lists.

**Texas has a sufficient process for removing non-citizens from the voter rolls.** Texas statutes require county clerks to regularly maintain a list of every person who is excused or

---

<sup>11</sup> [Absentee Voting Is Popular During COVID-19 But Does Not Change Turnout or Partisan Rates of Voting](#), Jesse Yoder, et al., Democracy & Polarization Lab, Stanford University, August 22, 2020.

<sup>12</sup> AK, AZ, CA, CO, FL, GA, HI, IA, ID, IL, KS, MD, ME, MI, MN, MT, NC, ND, NE, NJ, NM, NV, OH, OR, OK, PA, SD, UT, VA, VT, WA, WI, & WY all allow voters to cast an absentee or mail ballot without an excuse.

<sup>13</sup> AL, AR, IN, KY, MO, NH, NY, SC, & WV have all expanded absentee eligibility for the 2020 primary, the general election, or both.

<sup>14</sup> [Texas officials launched voter purge with big splash, little accuracy](#). Allie Morris, Houston Chronicle, January 31, 2019. See also, [Georgia accused of wrongfully purging nearly 200,000 from voter rolls: report](#), Justin Wise, The Hill, September 2, 2020.

disqualified from jury service because they are not a citizen, and to refer such individuals to the secretary of state, the voter registrar of the county, and the county or district attorney.<sup>15</sup> If it is determined that the person is not eligible to vote due to non-citizenship, they will be removed from the voter registration list and may be subject to prosecution.

**Texas should enact protections to prevent removal of eligible voters.** Like many states, Texas has rigorous procedures for monitoring its voter rolls to remove voters who are no longer eligible to vote.<sup>16</sup> In addition, Texas recently became a member state of the Electronic Registration Information Center (“ERIC”), meaning it will have access to even better information to accurately identify voters who may have registered to vote in another state. However, Texas is one of only a few states that requires *all* voters to be sent a renewal registration certificate on a periodic and recurring basis to initiate the list maintenance and removal process.<sup>17</sup> These kinds of imprecise practices can result in otherwise eligible voters being improperly purged based on minimal information. Removal from the registration list should only be triggered by credible, verified data, and voters and the public should be afforded notice and opportunity to ensure such removal is warranted. Texas should also require that voter lists received from ERIC or other external sources are thoroughly vetted and that a voter’s name, date of birth, and social security number matches the information in the voter’s registration before initiating the removal process.

**Texas should urge new residents identified through ERIC and the National Change of Address database to register to vote.** Texas is one of the fastest growing states in the country in terms of population. As part of Texas’s efforts to ensure the accuracy and integrity of its voter rolls, state election officials should regularly use all change of address resources at their disposal to identify individuals who have moved into the state, and actively encourage them to register to vote.

---

<sup>15</sup> Tex. Elec. Code § 16.0332; Tex. Gov’t Code § 62.113

<sup>16</sup> Texas has established statutory processes to remove voters who have died, moved, been convicted of a felony, are found to be non-citizens, or been adjudged mentally incapacitated.

<sup>17</sup> Tex. Elec. Code § 14.001; Tex. Elec. Code § 14.002; Tex. Elec. Code § 14.021; Tex. Elec. Code § 14.023